

MINUTES
Texas Real Estate Commission
February 26, 2001
Conference Room 235, Texas Real Estate Commission
Austin, Texas

Vice-Chairperson Christine Folmer called the regularly scheduled meeting of the Texas Real Estate Commission to order at 9:00 a.m., Monday, February 26, 2001. In addition to Ms. Folmer, members present were Ramon "Mick" Cantu, Lawrence Jokl, James Austin, Maria Gil, Jay Brummett, Deanna Mayfield and Kay Sutton. Chairman Brodie and Mr. Thorburn joined the meeting at 10:25.

Staff present were: Sabrina Hassumani, Assistant Administrator; Mark Moseley, General Counsel; Karen Alexander, Chief Accountant; Loretta DeHay, Director of Enforcement; Glen Bridge, Director of Information Services; Gwen Jackson, manager of the Education Section; Michelle Bowens, manager of the Licensing Section; Lorie Deanda, manager of the Communications Section; and Patricia Holder, Executive Assistant.

After calling the meeting to order, Vice-chairperson Folmer led the attendees in the pledge of allegiance and Mr. Brummett led the Texas pledge of allegiance.

Vice-chairperson Folmer moved to agenda item two, minutes of January 8, 2001, Commission meeting. Ms. Sutton, seconded by Ms. Gil, moved to approve the minutes as submitted. The motion was adopted by unanimous vote.

Ms. Folmer moved to agenda item three, election of vice-chairperson and secretary. Ms. Mayfield, seconded by Mr. Jokl, moved to elect Kay Sutton as the vice-chairperson. The motion was adopted by unanimous vote. Mr. Jokl, seconded by Ms. Mayfield, moved to elect James Austin as the secretary. The motion was adopted by unanimous vote.

The Vice-chairperson moved to agenda item four: monthly staff reports, committee reports and report on pending legislation. Ms. DeHay reported on the current status of complaint cases. Mr. Bridge reported on the reorganization of the web page and the number of people renewing their licenses on-line. Ms. Bowens introduced two new employees in the Communications department, Laura Alexander and Cindy Mahoney. Ms. Alexander reported that the lease for the TREC headquarters had been awarded and, also, introduced Pamala Greathouse, a new employee in the Cashier department.

Mr. Moseley reported on pending legislation. In addition to the legislative information provided in the meeting packets, Mr. Moseley reported that two additional bills had been filed which could impact real estate licensees, SB 754 and HB 2033.

The Vice-chairperson moved to agenda item five, general comments from visitors. There were no comments.

Ms. Folmer asked for permission to move to agenda item eleven, the Motion for Rehearing in the Matter of Jack Charles Harvard, Hearing No. 01-42-010363. Hearing no objection, the commission took up agenda item eleven. Ms. Folmer passed the gavel to Mr. Cantu for the rehearing.

Mr. Harvard appeared and was represented by his attorney, Jerry Prager. Mr. Prager presented the motion for rehearing. Michael Chisum, staff attorney, presented the Enforcement division's response to the motion. After discussion, Mr. Cantu called for a vote on the motion. Ms. Mayfield and Ms. Folmer

voted to grant the motion for rehearing. Ms. Gil, Ms. Sutton, Mr. Cantu, Mr. Austin, Mr. Brummett and Mr. Jokl voted to defeat the motion for rehearing. The motion for rehearing was defeated.

After discussion, Ms. Sutton, seconded by Mr. Austin, moved to issue a probationary license for two years. Mr. Brummett offered a friendly amendment which would specify that the time of probation would end in 2004 and that an additional term would be placed in the order forbidding the handling of escrow money. After discussion, Ms. Sutton withdrew her motion.

After discussion with staff concerning terms and conditions of the order for probation, Mr. Brummett, seconded by Ms. Gil, moved to accept the order as submitted by staff which would allow Mr. Harvard to be issued a probationary license until 2004. In addition to the standard terms and conditions of the order, it would require Mr. Harvard to cooperate with the Enforcement Division in performing unscheduled audits and examinations of his real estate business and financial accounts; and that he not handle or be responsible for the funds of others. The motion was granted by unanimous vote.

Vice-chairperson Folmer announced a break at 10:15 a.m. The meeting was called back to order at 10:25 a.m. Ms. Folmer announced that she would continue to chair the meeting at Chairman Brodie's request.

Ms. Folmer moved to agenda item six, discussion of proposed amendments or repeal of: (a) amendment to 22 TAC §539.231, concerning fees for residential service companies, new §539.71, concerning miscellaneous forms, and amendment to §539.91, concerning annual report; (b) repeal of 22 TAC §542.1, concerning the provisions of House Bill 5 (Government Code §2005.003); (c) amendments to 22 TAC §§543.1-543.6, concerning the Texas Timeshare Act. Mr. Moseley presented the agenda item for discussion. There were no comments made on these items.

The Vice-chairperson moved to agenda item seven, discussion and possible action on appointments to the Texas Real Estate Inspector Committee. Ms. Sutton reported on the meeting of the appointments committee held February 25, 2001 at 7:00 p.m. at the Doubletree Hotel. Ms. Sutton, Mr. Jokl, Mr. Cantu, Mr. Thorburn and Larry Foster, Chairman of the Texas Real Estate Inspector Committee were in attendance at the meeting. Ms. Sutton, seconded by Mr. Austin, moved that the following persons be appointed to the Texas Real Estate Inspector Committee for six year terms: T. J. Rowles, Shavauna Morgenroth-Hardin and John Cahill and that Allan Mac Gillivray be appointed to serve out the remaining two years of the unexpired term vacated by Phillip L. Watkins. The motion was adopted by unanimous vote.

Ms. Folmer moved to agenda item eight, discussion and possible action on the policy and procedures concerning former licensees who continue to practice with an expired license. Benny McMahan, Texas Association of Realtors, presented a proposed change to the policy. After discussion, Mr. Brummett, seconded by Ms. Gil, moved to request that staff develop a plan to allow brokers to receive a notice of failure to renew by sponsored salespeople. Mr. Brummett amended his motion to include sponsoring inspectors, also. The motion was approved by majority vote. Mr. Austin, Mr. Cantu, Ms. Gil, Ms. Folmer, Chairman Brodie, Ms. Mayfield and Mr. Brummett voted in favor of the motion. Mr. Jokl voted against the motion.

Ms. Sutton, seconded by Ms. Gil, moved that the current policy be changed to that suggested

by the Texas Association of Realtors. Namely, that when a licensee fails to timely renew a license, but continues to act as a licensee, and the licensee has no record of a similar violation in the preceding four years, the commission's policy would be to renew the license and issue an advisory letter to the licensee. A second violation within a four-year period would result in a 6-month probationary license. The probationary period would double for each subsequent violation within a four-year period. If the licensee who failed to timely renew the license is a salesperson, the enforcement policy against the licensee's sponsoring broker would be to issue an advisory letter to the sponsoring broker if the sponsoring broker had no similar violation in the preceding four years. A second violation within a four-year period would result in a \$500 fine. Subsequent violations within a four-year period would result in a \$1,000 fine.

If the Real Estate License Act is amended to permit fines against unlicensed persons, the unlicensed salesperson would be fined \$200 for the initial violation, \$500 for a subsequent violation, and double that for each subsequent violation in a 4-year period. After discussion, the motion was defeated with Ms. Sutton and Ms. Gil voting in favor of the motion, and Mr. Austin, Mr. Cantu, Ms. Folmer, Ms. Mayfield, Mr. Brummett, Chairman Brodie and Mr. Jokl voting against the motion. There was discussion concerning a possible proposed policy from Mr. Jokl, but no motion for action resulted.

Vice-chairperson Folmer moved to agenda item nine, discussion and possible action to authorize Sabrina Hassumani to approve expenditures. Mr. Brummett, seconded by Mr. Jokl, moved to authorize Sabrina Hassumani to approve everyday expenditures. The motion was adopted by unanimous vote.

Ms. Folmer moved to agenda item ten, consideration of complaint information. Ms. DeHay requested authorization to initiate investigations on the following persons for failure to provide information in connection with their license renewals: Barbara Ann Borchers, Karen Marie Evans and Frank D. Flores. Mr. Jokl, seconded by Mr. Brummett, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate investigations on the following persons for failing to complete their Mandatory Continuing Education hours or pay the \$200 fee needed to renew a license within the time required by rule: Jon Taylor Boyd, Guadalupe Higinio Flores, Maria A. Gonzales, Gayle Denise Gonzalez, Sanford Lee Gottesman, Jay Wallace Colvin III, Charles W. Jenness, Lois Ann Johnson, Frances Marie Kurtz, Velma Elizabeth Lloyd, Craig Lambert Massey, Thomas Randolph Matter, J. Bruce McNatt, Sharol Ann Pashilk, Joan Carolyn Sewell and Kyle Louis Stallings. Ms. Mayfield, seconded by Ms. Gil, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Vice-chairperson Folmer moved to agenda item thirteen, executive session to discuss pending litigation pursuant to Texas Government Code, § 551.071, and, if necessary, to receive legal advice from general counsel on posted agenda items under Texas Government Code, §551.071(2). The executive session began at 11:19 a.m.

The meeting was called back to order at 11:25 a.m. by Vice-chairperson Folmer. Ms. Folmer moved to agenda item fourteen, discussion and possible action to authorize payments from recovery funds.

RF 01-007 Eduardo Roa and Norma Aparicio, in the amount of \$1,256 actual damages.
Mr. Brummett, seconded by Ms. Gil, moved approval.

The next regularly scheduled meetings of the Commission are April 23, 2001, June 11, 2001 and
July 16, 2001. The meeting was adjourned at 11:28 a.m.

APPROVED this the 23rd day of April, A.D., 2001.

Chairman

ATTEST: _____